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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

TRUSTEES OF THE BRICKLAYERS AND)	CASE NO. CV 10-1709 SBA
ALLIED CRAFTSMEN LOCAL NO. 16)	
PENSION TRUST,)	
)	PLAINTIFF'S REQUEST TO
Plaintiffs,)	CONTINUE CASE MANAGEMENT
)	CONFERENCE;
vs.)	PROPOSED ORDER RESETTNG
)	CASE MANAGEMENT
McELDOWNEY AND SONS, INC., a California)	CONFERENCE
Corporation,)	
)	
Defendant.)	
)	
)	

Plaintiff respectfully requests that the Court continue the Case Management Conference currently scheduled for September 9, 2010 for 120 days, until January 6, 2011, for the following reasons.

Plaintiff's counsel has a conflict on September 9, 2010 and will be unable to participate in the telephonic Case Management Conference on that day.

Plaintiff's have been unable to serve Defendant and have filed an *ex parte* application to serve Defendant by publication and to extend the time to serve Defendant. (See document number 7 herein). The *ex parte* application details Plaintiff's attempts to serve Defendant, Defendant's refusal to accept service, and negotiations between Plaintiff's counsel and

Defendant's counsel. (*Id.*) Plaintiff has requested additional time to serve Defendant by publication and have requested until November 30, 2010 to file a proof of service with the Court. It is extremely unlikely that Plaintiff will be able to effectuate service before the case management conference currently scheduled for September 9, 2010.

In order to give Plaintiff time to serve Defendant by publication and give Defendant time to file a responsive pleading or for Plaintiff to take Defendant's default, the Court should continue the case management conference currently scheduled for September 9, 2010 for 120 days, until January 6, 2011. Even if the Court denies Plaintiff's request to continue the case management conference for 120 days, Plaintiff respectfully requests that the Court reschedule the case management conference for another date, as Plaintiff's counsel is unavailable on September 9, 2010.

Respectfully submitted,

Katzenbach & Khtikian

Dated: August 10, 2010


By: /s/ Kent Khtikian
W. Kent Khtikian
Attorneys for Plaintiff

~~Proposed~~ **ORDER**

Good cause appearing, the Court hereby orders that the Case Management Conference scheduled for September 9, 2010 is rescheduled for January 6, 2011 at 2:45 p.m. A joint case management conference statement shall be filed no later than December 27, 2010.

IT IS SO ORDERED

Dated: 9/3/10


Hon. Sandra B. Armstong
United States Judge

PROOF OF SERVICE BY MAIL

I am a resident of the County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is Katzenbach and Khtikian, 1714 Stockton Street, Suite 300, San Francisco, California 94133. I served the within:

1. PLAINTIFF'S REQUEST TO CONTINUE CASE MANAGEMENT CONFERENCE;
[Proposed] ORDER

on the parties remaining in the action herein, by placing a true copy thereof enclosed in a sealed envelope with first class postage thereon fully prepaid in the United States Mail at San Francisco, California, on August 10, 2010 addressed as follows:

Brian Joseph McEldowney
727 Monterey Rd.
Salinas, CA 93908

Terrence R. O'Connor, Esq.
Noland, Hamerly, Etienne & Hoss
P.O. Box 2510
Salinas, CA 93902

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 10, 2010.

/s/ Cheri Yau
Cheri Yau